IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7673 OF 2005

Bhupal Pandurang Patil Applicant

versus

The State of Maharashtra Respondent

Mr.Kuldeep S. Patil for applicant.

Mr.K.V.Saste - APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 15th December 2005

PC :

1. This application was adjourned at the request of learned Asstt. Public Prosecutor from 6th December 2005 till date. The matter pertains to District Sangli. Shri Saste - APP expresses his helplessness in the matter. He states that despite communication, none has remained present to instruct him. Local Police Station as well as Investigating Officer has not responded to the communications from the learned APP’s office. These are indeed sorry state of affairs.

2. The allegation is that the applicant-accused is guilty of an offence punishable u/s 376 of the IPC, which is well settled, a social crime. It is not the prosecutrix or the applicant but the society as a whole is interested in ensuring that the investigation into such offences is conducted expeditiously, the guilty person booked, charge sheet filed, charges framed and trial concluded with a sense of purpose and urgency with which the Hon’ble Supreme Court expects every body concerned to act.

3. The applicant who has filed instant application has assailed the role of the complainant in the entire episode. He states that the allegation is that the complainant-prosecutrix accompanied the accused on 9th June 2005 to Sangli. The allegation is that thereafter sexual intercourse was committed forcibly for 15 days. The applicant as well as complainant herein appeared before Police on 15th August 2005. The prosecutrix files instant complaint on 23rd September 2005 pursuant to which CR No.124/2005 is registered with Miraj Rural Police Station. The offences alleged are under sections 376, 366, 367, 420 and 506 IPC..

4. From a perusal of the statement recorded on 23rd September 2005 it is clear that the prosecutrix is major and her age is 25 years. She was married three years prior to the date of incident to one Krishna Kadam. That marriage lasted for one and a half years. Thereafter, she returned to her parents place at a village in Miraj Taluka. She was residing with her parents and the applicant-accused had lent and advanced a sum of Rs.4,000/- to the father of the complainant. During the course of this transaction and dealing, the applicant-accused visited the residential premises and that is how acquaintance developed. It appears that the prosecutrix accompanied the applicant on her own and stayed with him. She states that the applicant expressed a desire to get married four months prior to the date of complaint. In June 2005 she has accompanied the applicant. The allegations in the complaint recorded on 16th August 2005 and 23rd September 2005, prima facie, demonstrate an inconsistent stand. Either it is breach of promise of marriage or it is the offence of rape. It cannot be that the applicant and the prosecutrix accompanying each other residing together prima facie willingly for four months at several premises, would make out a case

of the prosecutrix allegedly being kidnapped or raped. I have perused the annexures to the application including the medical report. The applicant is a permanent resident at the address mentioned in the application and he has no criminal antecedents. In the light of the above, following order.

5. ORDER :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.124/2005 registered with Miraj Rural Police Station, subject to furnishing a personal bond of Rs.5,000/- (Rs.Five thousand only) with one local solvent surety in the like sum;

(ii) The applicant shall not enter limits of village Bhose, Tal.Miraj, District Sangli till trial is concluded;

(iii) The applicant will report to Miraj Rural Police Station once in a fortnight during 03.00 p.m. to 07.00 p.m.;

(iv) The bail is granted subject to condition that the applicant shall not, directly or

indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(v) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(vi) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)